|  |  |  |  |
| --- | --- | --- | --- |
| District Court, Alamosa County, Colorado |  |  | |
| 704 4th Street |  |  | |
| Alamosa, CO 81101 | DATE | FILED: September 26, 2017 5:43 PM | |
|  | FILIN | G ID: C1C6B605A70FE | |
|  | CASE | NUMBER: 2016CR361 | |
| **Plaintiff: State of Colorado**  **v.**  **Defendant: RICKY MANZANARES** | |  |  |
| Beale C. Tejada #44851 CRANE & TEJADA, P.C.  1544 Race St.  Denver, CO 80206 | |  COURT USE ONLY   Case Number: 16CR361 | |
| Phone Number: 720.512.5871  Fax Number: 970.247.1538  Ema[il: btejada@craneandtejada.com](mailto:btejada@craneandtejada.com) | | Div.: 2 | |
| **MOTION FOR BILL OF PARTICULARS** | | | |

Mr. Ricky Manzanares, by and through counsel, moves this Court to order the prosecution to provide a bill of particulars in respect to Count 10, F6 Tampering With Physical Evidence,

C.R.S. § 18-8-610(1)(a). In support, he states:

# BACKGROUND

* + 1. Mr. Manzanares is charged with F2 Attempted First Degree Murder and other various charges. These charges stem from an alleged incident where the alleged victim, Mr. Arthur Chavez, claimed that Mr. Manzanares and another “person” (or “persons” depending on which statement of Mr. Chavez is reviewed) barged into his house and allegedly attacked him with either a tire iron or a bat.
    2. The discovery provided to defense counsel thus far is very unclear as to what evidence Count 10 is supported. Defense counsel has, to the best of his knowledge, reviewed all the discovery.
    3. Furthermore, Count 10 in the filed Complaint and Information, dated July 20, 2016, does not describe what evidence is the basis of these allegations. Count 10 simply alleges that some unknown “physical evidence” was altered.

# LAW AND ARGUMENT

* + 1. The Colorado Supreme Court has, through Crim. P. 7(g) and accompanying case law, recognized that a mere recitation of the legal elements of a particular offense in the information may well not provide an accused with adequate information or limitations upon which to base trial preparation and trial defense. In *Balltrip v. People*, 401 P.2d 259

(Colo. 1965), and *People v. District Court*, 603 P.2d 127 (Colo. 1979), the Court described the purposes of a bill of particular as those of more completely and specifically defining the factual elements of the prosecution’s allegations, and therefore enabling the accused an adequate opportunity to prepare a defense and therefore avoiding surprise to the defense at trial.

* + 1. A bill of particulars does not require the prosecution to state the detailed particulars of its evidence as to each element of the charged offense, and Mr. Manzanares does not request such. Mr. Manzanares simply requests to know with what piece of “physical evidence” he allegedly tampered.
    2. In this case, a bill of particulars imposes no significant burden upon the prosecution. Further, since Mr. Manzanares’ waived his preliminary hearing, he did not have an opportunity to discern the basis for Count 10 at such a hearing.
    3. Mr. Manzanares recognizes that Crim. P. 7(g) specifically states that a motion for a bill of particulars must be made within 14 days after arraignment “or at such time as may be prescribed by rule or order.” Mr. Manzanares is unaware why a bill of particulars has not been filed before today’s date, but nonetheless requests this Court to order a bill of particulars.

Respectfully submitted on September 26, 2017,

/s/ Beale C. Tejada Beale C. Tejada

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2017, I electronically filed a copy of this document, via ICCES, with the Clerk of the Court. All parties of record were also served.

/s/ Beale C. Tejada Beale C. Tejada